

§ 152.1

32 CFR Ch. I (7–1–02 Edition)

§ 152.1 Purpose.

This part implements the requirement established by the President that Manual for Courts-Martial, United States 1984, Executive Order 12473 reference be reviewed annually.

§ 152.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense, the Military Departments, and, by the agreement with the Secretary of Transportation, to the Coast Guard.

(b) This part is intended only to improve the internal management of the Federal Government; it is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

§ 152.3 Policy.

It is DoD policy to review annually the Manual for Courts-Martial, to ensure that the Manual fulfills its fundamental purpose as a comprehensive body of law governing military justice procedures and as a guide for lawyers and nonlawyers in the operation and application of such law.

§ 152.4 Procedures.

(a) *Annual review.* (1) A draft of the annual review of the Manual for Courts-Martial required by the President under Executive Order 12473 shall be prepared by the Joint Service Committee on Military Justice. The Joint Service Committee consists of one representative of each of the following: the Judge Advocate General of the Army; the Judge Advocate General of the Navy; the Judge Advocate General of the Air Force; the Director, Judge Advocate Division, Headquarters, U.S. Marine Corps; and the Chief Counsel, U.S. Coast Guard. In addition, the Court of Military Appeals shall be invited to provide a staff member to serve in a nonvoting capacity with the committee.

(2) The Joint Service Committee on Military Justice shall review the Manual (including the Discussion and Appendices) in light of judicial and legislative developments in civilian practice to:

(i) Ensure that the Manual, the Discussion, and the Appendices apply the principles of law and rules of evidence generally recognized in the trial of criminal cases in the U.S. District Courts to the extent practicable and to the extent that such principles and rules are not contrary to or inconsistent with the UCMJ. See Article 36, UCMJ (10 U.S.C. 836 and 10 U.S.C. 867(g)). This includes the requirement that the Manual must be workable across the spectrum of circumstances in which courts-martial are conducted, including combat conditions.

(ii) Ensure that the Manual, the Discussion, and the Appendices reflect current military practice and judicial precedent.

(3) The Joint Service Committee shall send its draft review to the General Counsel not later than April 15, 1985, and February 1 of each year thereafter. A copy of the report shall be sent to the committee, established by Article 67(g), UCMJ (10 U.S.C. 836 and 10 U.S.C. 867(g)) which may submit comments on the draft review to the General Counsel.

(4) The draft review shall set forth any specific recommendations for changes in the Manual, the Discussion, or the Appendices. If no changes are recommended, the draft review shall so state. If changes are recommended by the Joint Service Committee, the public notice procedures of paragraph (c) of this section, are applicable. If the Joint Service Committee determines that an aspect of civilian practice should be adopted, but recommends that the Manual should not be changed because the proposal would be contrary to or inconsistent with 10 U.S.C. 836 and 867(g) the draft review should contain a legislative proposal. Minority reports, if any, shall be included.

(5) Proposed changes to the Manual for Courts-Martial and proposed legislative changes that are recommended in the draft review are subject to the coordination requirements of DoD Directive 5500.1.

(b) *Other changes to the Manual for Courts-Martial.* (1) Normally, changes to the Manual for Courts-Martial will be proposed as part of the annual review set forth in paragraph (a) of this